



BEFORE THE MONTGOMERY COUNTY ETHICS COMMISSION

Waiver No. 09-01-001

For one year after leaving County employment, a former employee must not work for any person or business if the employee significantly participated during the previous three years in any contractual activity with that person or business. Bruce Johnston, a division chief in the Department of Transportation (DOT), seeks a waiver to permit him to accept post-County employment with URS Corporation, a DOT contractor. The Commission will grant the requested waiver because the proposed employment is not likely to create an actual conflict of interest.

Mr. Johnston is the Chief of the Division of Transportation Engineering in DOT. He reports that URS has been a contractor with Montgomery County for several years; however all those previous contracts have now expired. URS recently submitted proposals and was selected for the County's Basic Ordering Agreement (BOA) contract. URS is one of six contractors selected for the Planning and Engineering BOA Contract. URS is also a subcontractor to Alpha Corporation, which is one of six contractors selected for the Construction Services BOA Contract.

Mr. Johnston was the contract administrator for all of these contracts, which included signing off on task orders, but he recently delegated this responsibility for both the URS contract and the Alpha contract to others in his Division based upon his reading of § 19A-11(a)(2)(C).¹ Before delegating this responsibility, Mr. Johnston had very little interaction with URS. While he did sign off on the recommendation of the Quality Selection Committee (QSC) to contract with URS, he did not participate in any contract negotiations with URS or directly manage any URS projects.

If a waiver is granted, and the job is offered, Mr. Johnston has agreed that he will not work on any projects related to Montgomery County for a period of three years after his County employment is terminated. The URS position is located in New York City and he anticipates that his work would be limited to the New York City subway system. Mr. Johnston has not had any contact with URS regarding potential employment.

Section 19A-13(b) of the ethics law provides that, for one year after leaving County employment, a former employee must not work for any person or business if the employee significantly participated during the previous three years in any contractual activity with that

¹ That provision prohibits an employee from participating in a matter where a party to that matter is any business with which the employee is negotiating or has any arrangement about prospective employment.

person or business. Significant participation includes not just making a decision, but also making a recommendation and the rendering of advice. § 19A-13(c). Mr. Johnston has significantly participated in contractual activity with URS and therefore needs a waiver to accept post-County employment.

The Commission may waive the prohibitions of § 19A-13 if it finds that the proposed employment is not likely to create an actual conflict of interest. § 19A-8(c)(2). The Commission finds that the waiver standard is met in this case. Mr. Johnston has delegated his contract administration responsibilities to others and, even before that, had very little interaction with URS. His potential work with URS is geographically remote from the County and he has agreed not to work on any projects related to Montgomery County for a period of three years after his County employment is terminated.

In reaching this decision, the Commission has relied upon the facts as presented by the requestor.

FOR THE COMMISSION:



January 13, 2009

Date

Antar Johnson, Chair